

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL J. CONIKER,

Petitioner,

v.

FRANK J. SCHERER, Director of Allegheny
County Probation, and THE ATTORNEY
GENERAL OF THE STATE OF
PENNSYLVANIA,

Respondents.

Civil Action Nos. 2:20-cv-1768
2:20-cv-1775

Hon. William S. Stickman IV

ORDER OF COURT

Michael J. Coniker (“Petitioner”), a state probationer, filed two separate counseled Petitions for Writ of Habeas Corpus (“Petitions”) pursuant to 28 U.S.C. § 2254, challenging his consolidated 2014 state convictions. The case was referred to Magistrate Judge Kelly in accordance with the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D.

On January 5, 2021, Magistrate Judge Kelly issued a Report and Recommendation that the Petitions be dismissed pre-service because they: “(1) raise a claim for relief that is not cognizable in federal habeas proceedings; 2) they clearly violate the AEDPA one-year statute of limitations as the Petitions were filed more than four years after the AEDPA statute of limitations ran as calculated from the date his conviction became final; and, 3) Petitioner procedurally defaulted any claims actually raised in the untimely PCRA petition or that could have been raised in the untimely PCRA petition.” (20-cv-1768 - ECF No. 2; 20-cv-1775 - ECF No. 2). The parties were afforded until January 19, 2021 to file objections. No objections

having been filed, the Court hereby ADOPTS Magistrate Judge Kelly's Report and Recommendation as the Opinion of the Court.

AND NOW, this 2nd day of February 2021, IT IS HEREBY ORDERED that the Petitions for Habeas Corpus (20-cv-1768 - ECF No. 1; 20-cv-1775 - ECF No. 1) are DISMISSED WITH PREJUDICE. A certificate of appealability is DENIED as jurists of reason would not find it debatable that Petitioner's claims lack merit.¹ IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

BY THE COURT:

A handwritten signature in black ink, appearing to read "W S Stickman IV", written over a horizontal line.

WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE

¹ A certificate of appealability may issue only upon "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The Court concurs with Magistrate Judge Kelly that there is no cause to issue a certificate of appealability in this action.